

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

NICHOLAS DANIEL BURSHIA,

Defendant.

CR 17-29-GF-BMM-JTJ

**FINDINGS AND
RECOMMENDATIONS**

I. Synopsis

Defendant Nicholas Daniel Burshia (Burshia) has been accused of violating the conditions of his supervised release. Burshia admitted all of the alleged violations. Burshia's supervised release should be revoked. Burshia should be placed in custody until October 23, 2023, with 51 months of supervised release to follow. Burshia should serve the first 180 days of supervised release at a residential re-entry center.

II. Status

Burshia pleaded guilty to Abusive Sexual Contact on September 13, 2017. (Doc. 24). The Court sentenced Burshia to 69 months of custody, followed by 5 years of supervised release. (Doc. 34). Burshia's current term of supervised

release began on March 1, 2023. (Doc. 51 at 2).

Petition

The United States Probation Office filed a Petition on May 17, 2023, requesting that the Court revoke Burshia's supervised release. (Doc. 51). The Petition alleged that Burshia had violated the conditions of his supervised release: 1) by failing to complete his sex offender treatment program; 2) by failing to comply with his substance abuse testing requirements; and 3) by failing to notify his probation officer of a change in residence.

Initial appearance

Burshia appeared before the undersigned for his initial appearance on May 30, 2023. Burshia was represented by counsel. Burshia stated that he had read the petition and that he understood the allegations. Burshia waived his right to a preliminary hearing. The parties consented to proceed with the revocation hearing before the undersigned.

Revocation hearing

The Court conducted a revocation hearing on May 30, 2023. Burshia admitted that he had violated the conditions of his supervised release: 1) by failing to complete his sex offender treatment program; 2) by failing to comply with his substance abuse testing requirements; and 3) by failing to notify his probation

officer of a change in residence. The violations are serious and warrant revocation of Burshia's supervised release.

Burshia's violations are Grade C violations. Burshia's criminal history category is I. Burshia's underlying offense is a Class A felony. Burshia could be incarcerated for up to 60 months. Burshia could be ordered to remain on supervised release for up to 56 months, less any custody time imposed. The United States Sentencing Guidelines call for a term of custody of 3 to 9 months.

III. Analysis

Burshia's supervised release should be revoked. Burshia should be incarcerated until October 23, 2023, with 51 months of supervised release to follow. This sentence is sufficient but not greater than necessary. Burshia should serve the first 180 days of supervised release at a residential re-entry center.

IV. Conclusion

The Court informed Burshia that the above sentence would be recommended to Chief United States District Judge Brian Morris. The Court also informed Burshia of his right to object to these Findings and Recommendations within 14 days of their issuance. The Court explained to Burshia that Judge Morris would consider a timely objection before making a final determination on whether to revoke his supervised release and what, if any, sanction to impose.

Burshia stated that he wished to waive his right to object to these Findings and Recommendations, and that he wished to waive his right to allocute before Judge Morris.

The Court **FINDS:**

That Nicholas Daniel Burshia violated the conditions of his supervised release: by failing to complete his sex offender treatment program; by failing to comply with his substance abuse testing requirements; and by failing to notify his probation officer of a change in residence.

The Court **RECOMMENDS:**

That the District Court revoke Burshia's supervised release and commit Burshia to the custody of the United States Bureau of Prisons until October 23, 2023, with 51 months of supervised release to follow. Burshia should serve the first 180 days of supervised release at a residential re-entry center.

**NOTICE OF RIGHT TO OBJECT TO FINDINGS AND
RECOMMENDATIONS AND CONSEQUENCES OF FAILURE TO OBJECT**

The parties may serve and file written objections to the Findings and Recommendations within 14 days of their entry, as indicated on the Notice of Electronic Filing. 28 U.S.C. § 636(b)(1). A United States district court judge will make a de novo determination regarding any portion of the Findings and Recommendations to which objection is made. The district court judge may accept, reject, or modify, in whole or in part, the Findings and Recommendations. Failure

to timely file written objections may bar a de novo determination by the district court judge, and may waive the right to appear and allocute before a district court judge.

DATED this 31st day of May, 2023.



John Johnston
United States Magistrate Judge